

REMARKS:

In accordance with the foregoing, claims 1-10, 17-20 are pending and under consideration. No new matter is added. The outstanding rejections are traversed below.

REJECTION UNDER 35 U.S.C. §101:

Claims 1-10 and 17-20 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

The Examiner claims that the claims recite merely an abstract idea that is not within the technological arts. Independent claims 1, 17 and 19 are directed to a method and system for online shopping to allow a user to search and purchase an intended article where “a user terminal” in the technological arts is used to strategically display search results conducted during online shopping to facilitate online shopping, a useful, tangible, and concrete result. Accordingly, claims 1, 17 and 19 recite a method and system for online shopping within the technological arts providing a useful, concrete, tangible result.

MPEP §2106 states that subject matter outside patentable statutory subject matter is limited to abstract ideas, laws of nature, and natural phenomena, where the claimed subject matter is not a *practical application or use* of an idea, a law of nature or a natural phenomena. Thus, a claim to an “abstract idea” is non-statutory when it does not represent a practical application of the idea. A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result (see, MPEP §2106).

As recited in amended independent claims 1, 17 and 19, “generating article picture arrangement data in which article pictures having similar features are disposed at close positions as search results of the article data” allows an article picture to be strategically displayed according to sending rank data. Accordingly, a concrete, tangible and useful result is achieved not only by generating article picture arrangement data upon receiving an article search by a user but also by initially “generating/preparing article data including features of an article and sending rank data related to teach article picture as additional information” so that the user is provided with customized displayed information. (see, State Street Bank & Trust Co. v. Signature Financial Group Inc., 47 U.S.P.Q.2d 1596 (Fed. Cir. 1998)).

Thus, it is respectfully submitted that because independent claims 1, 17 and 19 and dependent claims dependent therefrom satisfy the requirements of 35 USC §101, withdrawal of the rejection is requested.

REJECTION UNDER 35 U.S.C. §102(e):

Claims 1-10 and 17-20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. US2002/0156703 ('703).

The Examiner relies on the '703 reference to reject claims 1-10 and 17-20. The present application has an effective U.S. filing date of April 23, 2001, and claims benefit of a foreign Japanese Patent Application No. 2000-403214 filed on December 28, 2000. Because the present application was filed after November 29, 2000, it is subject to the current version of 35 U.S.C. §102(e). The '703 reference has a PCT filing date of June 4, 2001, and a U.S filing date of February 5, 2002.

According to MPEP §2136.03, an application publication that claims the benefit of an international filing date of a PCT application is available as prior art under §102(e) as of the international filing date only if the international application designated the U.S. and the international application was published in English. The '703 reference designated the U.S. but was not published in English. Moreover, the PCT filing date of the '703 reference is *after* both the U.S. filing date of the present application and the filing date of Japanese Patent Application No. 2000-403214 from which the present application claims foreign filing benefit. Accordingly, because any effective date of the '703 reference is after the U.S. filing date and after the filing date of Japanese Patent Application No. 2000-403214 from which the present application claims foreign filing benefit, the '703 reference does not qualify as a prior art reference under 35 U.S.C. §102(e). That is, the present invention has an effective filing date before the effective date of the prior art.

Although the '703 reference claims foreign priority from Japanese Application Nos. 2000-174295 and 2000-384522, filed on June 9, 2000 and December 18, 2000, respectively, the foreign priority date of the reference under 35 U.S.C. §119(a)-(d) and (f) cannot be used to antedate the application filing date. MPEP §2136.03.

Accordingly, withdrawal of the rejection is requested.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

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If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: _____

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By: _____



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